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### REMARKS

In the Office Action, the Examiner noted that claims 1-13 are pending in the application, and that claims 1-13 are rejected. By this response, claim 10 is amended, claims 11-12 are cancelled, and claims 31-32 are newly added. Claims 1-9 and 11-13 continue unamended. In view of the above amendments and the following discussion, Applicants submit that none of the claims now pending in the application are obvious under the provisions of 35 U.S.C. § 103. Thus, the Applicant believes that all of these claims are now in condition for allowance.

### I. OBJECTIONS

The Examiner has objected to claims 10 and 11 due to informalities. In particular, the Examiner noted that claim 10 appears to erroneously depend from claim 1, rather than claim 9. In addition, the Examiner noted that there are two claims designated with the number "11".

Claim 10 has been amended to correctly depend from claim 9. Each of the claims designated with the number "11" have been cancelled. The subject matter of such claims is recited in new claims 31-32. As such, Applicants respectfully request that the objections be withdrawn.

### II. REJECTION OF CLAIMS UNDER 35 U.S.C. §103(a)

The Examiner rejected claims 1-13 as being unpatentable over Eyal (United States patent 6,484,199, issued November 19, 2002) in view of Herz (United States patent 6,029,195, issued February 22, 2000). The rejection is respectfully traversed.

The Examiner's use of the Eyal patent as prior art against Applicants' invention is improper. More specifically, the Eyal patent was filed on March 12, 2002, and is a continuation of United States patent 6,389,467, filed May 2, 2000 (the '467 patent). The present application was filed on March 29, 2000. Since the filing date of the present application precedes the filing date of the Eyal patent, as well as the filing date of the '467 patent, the Eyal patent is not prior art to Applicants' invention.

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Applicants note that the Eyal patent claims priority to a provisional patent application filed January 24, 2000. Under 35 U.S.C. §102(e), the filing date of a provisional patent application may be the effective filing date of a United States patent claiming priority to such provisional patent application only to the extent that such provisional patent application supports the subject matter used to make the rejection. See MPEP §706.02(f). The Eyal provisional application is technically a different reference than the Eyal patent and may contain a different technical description. Presently, there is no evidence in the record that the Eyal provisional application supports the subject matter used to make the rejection. Applicants invite the Examiner to provide evidence that the Eyal provisional patent application supports the subject matter used to make the rejection.

Herz teaches a system that constructs a profile for an object within an electronic medium. (See Herz, Abstract). In particular, Herz describes multicasting between a proxy server and a plurality of servers. (Herz, col. 45, lines 13-33). Herz, however, does not teach, suggest, or otherwise render obvious Applicants' invention as recited in claim 1. Namely, Herz does not teach or suggest calculating a server hotness rating for streaming multimedia objects hosted by a content server. In addition, Herz does not teach or suggest categorizing the streaming multimedia objects into a plurality of hotness categories based on the calculated hotness ratings. Specifically, Applicants' claim 1 positively recites:

"A method for distributing a streaming multimedia (SM) object in a network having a content server which hosts SM objects for distribution over said network through a plurality of helpful servers (HSs) to a plurality of clients, said method comprising:

calculating at said content server a server hotness rating for said SM objects hosted thereon;

performing a categorization process, wherein each of said SM objects hosted by said content server are categorized into one of a plurality of server hotness categories based on each of said SM object's calculated server hotness rating; and

multicasting from said content server at least one of said SM objects hosted thereon to a fraction of said plurality of HSs in the network, said fraction being determined according to said SM object's hotness category." (Emphasis added).

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Therefore, Applicants contend that claim 1 is patentable over Herz and, as such, fully satisfies the requirements of 35 U.S.C. §103.

Furthermore, claims 5, 9, and 13 recite features similar to those recited in claim 1. For the same reasons discussed above, Applicants contend that claims 5, 9, and 13 are also patentable over Herz and fully satisfy the requirements of 35 U.S.C. §103. Finally, claims 2-4, 6-8, and 10 depend, either directly or indirectly, from claims 1, 5, 9, and 13 and recite additional features therefor. Since Herz does not render obvious Applicants' invention as recited in claims 1, 5, 9, and 13, dependent claims 2-4, 6-8, and 10 are also not obvious and are allowable.

#### CONCLUSION

Thus, Applicants submit that none of the claims presently in the application are obvious under the provisions of 35 U.S.C. § 103. Consequently, Applicants believe that all these claims are presently in condition for allowance. Accordingly, both reconsideration of this application and its swift passage to issue are earnestly solicited.

If, however, the Examiner believes that there are any unresolved issues requiring adverse final action in any of the claims now pending in the application, it is requested that the Examiner telephone Mr. Robert M. Brush, Esq. or Mr. Eamon J. Wall, Esq. at (732) 530-9404 so that appropriate arrangements can be made for resolving such issues as expeditiously as possible.

Respectfully submitted,

10/28/03

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